

Massachusetts Contingency Plan Fact Sheet
PUBLIC INVOLVEMENT IN SITE CLEANUP
310 CMR 40.1400

To be successful, cleanups of contaminated properties must address the concerns of the communities in which they are located. Local officials, residents, businesses, environmental groups, and others need to be satisfied with a cleanup, since they will live and work with the results.

HOW DO CONTAMINATED SITES GET CLEANED UP? Most sites are investigated and cleaned up by the person or company required to do so under the Massachusetts Superfund Law (MGL c. 21E). The Massachusetts Contingency Plan (MCP) lays out the state's rules for conducting these investigations and cleanups (which are called "response actions").

Immediate Response Actions (IRAs) are taken, with DEP approval, whenever a sudden release of oil or hazardous material, or other time-critical situation, is encountered. Other early actions, known as Release Abatement Measures (RAMs) and Utility-Related Abatement Measures (URAMs), can be voluntarily taken to reduce risks and lower future cleanup costs.

Sites that are not permanently cleaned up within one year after being reported to DEP are scored by the person conducting response actions using a numerical ranking system, and classified as Tier I or Tier II to determine the appropriate level of DEP oversight. At Tier II sites, cleanup may proceed without DEP involvement. A DEP permit is required at Tier I sites. DEP may provide oversight or require its approval of response actions at any disposal site (regardless of tier classification) if it determines the agency's involvement is warranted.

People who are responsible for site cleanups must hire a Licensed Site Professional (LSP), an environmental expert licensed by an independent state board, to manage cleanups and provide opinions that site work meets state requirements.

DEP audits the results at a number of these sites to make sure they comply with cleanup standards. Where no one is willing and able to clean up these sites, DEP may spend state funds to hire a contractor to do the work.

Public involvement is a critical part of the process. The MCP encourages citizens to participate in the process of investigating and cleaning up sites, and requires the person performing the cleanups to provide specific opportunities for participation.

HOW TO GET INFORMATION: The person conducting response actions at contaminated sites must inform the public of the risks posed by the site, the status of response actions, the availability of Technical Assistance Grants (described below), and the opportunities for becoming more actively involved. This information is made available in several ways.

By DEP:

- DEP maintains files on each release/threat of release reported. These files can be reviewed by appointment at the appropriate DEP Regional Office.
- Key information is tracked in DEP's databases, which are available in the DEP Regional Service Centers and on the BWSC website.

By person performing the cleanup:

The person conducting response actions, must provide progress reports by sending notices to local officials, publishing notices in the Environmental Monitor (published by the MEPA unit of the Executive Office of Environmental Affairs) and publishing legal notices in local newspapers. These notice requirements are described in the accompanying chart.

HOW TO GET INVOLVED: In many cases, the people conducting response actions and the community are already communicating comfortably, and a formal public involvement process is not necessary. In other cases, a formal process is needed to ensure that public concerns are addressed, and that the public's involvement will be focused constructively. DEP's public involvement process is designed to address concerns regarding the investigation and clean up of sites regulated under the MCP.

HOW AND WHEN CITIZENS BECOME FORMALLY INVOLVED IN CLEANUP PLANNING: If citizens or local officials want more involvement, they can request that a formal process be set up for their participation in cleanup planning.

Citizens can be involved in planning for preliminary response actions at a site within the year after the site is reported to DEP, by commenting in writing on an upcoming plan. Depending on the situation, a public meeting may be held. To become involved in the planning for an Immediate Response Action, citizens must write to DEP. To become involved in the planning for a Release Abatement Measure, citizens should write to the person conducting response actions.

Citizens interested in becoming formally involved in the planning for comprehensive actions after a site has been tier classified must send a petition (by registered or certified mail) to the person conducting response actions, with a copy to DEP. The petition must ask for designation of the site as a *Public Involvement Plan* (PIP) site, and must include:

- the disposal site name, address and Release Tracking Number (obtained from DEP)
- a request to designate the disposal site as a PIP Site "pursuant to MGL c. 21E and the Massachusetts Contingency Plan" and
- legible signatures and addresses of at least ten residents or local officials of the site's community or of a city or town potentially affected by the site.

WHAT HAPPENS AFTER A PIP PETITION IS FILED? The person conducting response actions must respond in writing within 20 days, notifying the petitioners that the site has been designated as a PIP site, and prepare a PIP.

PIPs are an agreement between the person conducting response actions and the public about how they will share information, and how the public will be able to comment on plans for assessment and cleanup.

At a minimum PIPs must provide for a **local information repository**, a **site mailing list**, opportunities for **public comment** on all site assessment and cleanup reports submitted to DEP, and **responses to the public comments**. Beyond these basic requirements, there is a great deal of flexibility for throughout the cleanup process.

The person who drafts the PIP must contact the petitioners and appropriate local officials to identify the community's concerns, explain the MCP process and identify at which points reports will be available for comment. The PIP then must explain how these

concerns will be considered as plans for the site are developed.

A draft PIP must be prepared within 60 days after the petition is received. A public meeting must be held to present the draft PIP and to provide an update on site conditions and plans. Following the meeting, a public comment period of at least 20 days must be held to allow the public to review and suggest changes in the PIP. The final Plan must be completed and made available to the public within 30 days of the close of this comment period, with a summary of the public comments received and responses to those comments. The Plan is then implemented throughout the cleanup process.

WHO CARRIES OUT PUBLIC INVOLVEMENT ACTIVITIES? The person conducting response actions at the site must make sure that the MCP public involvement requirements are met. In most cases this is the person who owns or is legally responsible for the site. If DEP is doing a cleanup, the agency will provide public involvement opportunities directly.

FOR MORE INFORMATION

Waste Site Cleanup requirements, including the MCP and fact sheets, visit: <http://www.mass.gov/dep/bwsc>

Petitions and Requests for Public Involvement, contact DEP Regional Public Involvement Coordinators:

Western Regional Office (413) 784-1100
Central Regional Office (508) 792-7653
Northeast Regional Office (978) 694-3200
Southeast Regional Office (508) 946-2700

Licensed Sites Professionals, contact:
LSP Board (617) 574-6870

MEPA, contact: (617) 727-5830

Published 11/98, revised 5/04

310 CMR 40.1400 Massachusetts Contingency Plan Public Notice Requirements(1)

ACTIVITY/EVENT	WHO IS NOTIFIED	HOW AND WHEN
Implementation of an Immediate Response Action (IRA) taken to control, prevent, abate or eliminate an Imminent Hazard*	CMO and BOH	Oral or written notice as soon as possible yet no later than 48 hrs following implementation of the IRA; if oral notice, follow up with written notice within 7 days; concurrently copy DEP
Submittal of a Completion Statement for an IRA taken to control, prevent, abate or eliminate an Imminent Hazard	CMO and BOH	Upon availability send a written notice or copies of correspondence, and how to obtain a full copy of the report; concurrently copy DEP
Implementation of any Release Abatement Measure (RAM)	CMO and BOH	Oral or written notice as soon as possible yet no later than 48 hrs following implementation of the IRA; if oral notice, follow up with written notice within 7 days; concurrently copy DEP
Implementation of field work involving the use of respirators or Level A, B or C protective clothing; residential sampling involving private drinking water supply wells, indoor air or surficial soils*	CMO and BOH	Oral or written notice as soon as possible yet no later than 48 hrs following implementation of the IRA; if oral notice, follow up with written notice within 7 days; concurrently copy DEP
Notice of Tier I Classification and Permit Application	General Public	Public Legal Notice, Form #1 Copy to MEPA Published prior to submitting the Permit Application to DEP; include a copy of the legal notice with application to DEP
	CMO and BOH	At least 3 days prior to publication in the newspaper; send a copy of the legal notice
Notice of Initial Site Investigation and Tier II Classification	General Public	Public Legal Notice, Form #6 Within 7 days of submitting the Tier II Classification; include a copy of the legal notice with the application to DEP
	CMO and BOH	At least 3 days prior to publication in the newspaper; send a copy of the legal notice
Notice of Application for a Major Modification to a Waste Site Cleanup Permit	General Public	Public Legal Notice, Form #3 Copy to MEPA Published prior to submitting the Major Modification to DEP; include a copy of the legal notice with the application to DEP
	CMO and BOH	At least 3 days prior to publication in the newspaper; send a copy of the legal notice
Notice of Application to Transfer a Waste Site Cleanup Permit	General Public	Public Legal Notice, Form #4 Published prior to submitting the Permit Transfer to DEP; include a copy of the legal notice with application to DEP
	CMO and BOH	At least 3 days prior to publication in the newspaper; send a copy of the legal notice
Notice of Application to Extend a Waste Site Cleanup Permit	General Public	Public Legal Notice, Form #5 Published prior to submitting the Permit Extension to DEP; include a copy of the legal notice with application to DEP
	CMO and BOH	At least 3 days prior to publication in the newspaper; send a copy of the legal notice
Submittal of all Phase Reports to DEP	CMO and BOH	Upon availability send a written notice or copies of correspondence, and how to obtain a full copy of the report; concurrently copy DEP

Notice of Availability of a Remedial Action Plan (Phase III)	General Public	MEPA Notice, Form #10 -TIER IA SITES: submit within 7 days of DEP approval of Phase report of LSP Opinion -TIER IB SITES: submit within 7 days of filing the LSP Opinion with DEP
	CMO and BOH	For both, concurrently copy DEP, CMO and BOH with notice to the Environmental Monitor
Any field work involving the implementation of Phase IV Remedial Actions	CMO and BOH	Oral notice at least 3 days prior, followed by written within 7 days; concurrently copy DEP
Notice of Availability of a Remedy Implementation Plan (Phase IV)	General Public	MEPA Notice, Form #11 -TIER IA SITES: submit within 7 days of DEP approval of Phase report of LSP Opinion -TIER IB SITES: submit within 7 days of filing the LSP Opinion with DEP
	CMO and BOH	For both, concurrently copy DEP, CMO and BOH with notice to the Environmental Monitor
Submittal of a Response Action Outcome (RAO) Statement	CMO and BOH	Upon availability send a written notice or copies of correspondence, and how to obtain a full copy of the report; concurrently copy DEP
Submittal of an RAO Statement that relies on the public way/rail right-of-way exemption from the requirements of an Activity and Use Limitation (AUL)	CMO and BOH	Upon availability send a written notice or copies of correspondence, and how to obtain a full copy of the report; concurrently copy DEP, public agency owning and operating the public way, and for rail right-of-way, the owner and operator of the rail line, as well as EOTC
Recording/registering, amendment, release or termination of Grant of Environmental Restriction/Notice of an AUL	General Public	Legal Notice, Forms #8 and 9 Within 30 days of recording/registering, amending, releasing or terminating the Notice of an AUL
	CMO, BOH, ZO and BCEO	Send a copy of AUL to CMO, BOH, ZO and BCEO; copy of local notice to DEP within 7 days of publishing
Submittal of a Downgradient Property Status	CMO and BOH	Upon availability send a written notice or copies of correspondence, and how to obtain a full copy of the report; concurrently copy DEP
Notice of Initial Public Involvement Meeting to present draft Public Involvement Plan	General Public	Legal Notice, Form #7 and issue a press release at least 14 days prior to the meeting date
	CMO, BOH and Petitioners	Send a copy of the legal notice to the mailing list (which includes CMO, BOH, DEP and petitioners)

Note: CMO = Chief Municipal Officer BOH = Board of Health EOTC = Executive Office of Transportation ZO = Zoning Official BCEO = Building Code Enforcement Official MEPA = Massachusetts Environmental Policy Act LSP = Licensed Site Professional Copies of notices should be sent to officials in the community(ies) affected or potentially affected by the disposal site.

* When issues of public safety are involved, the Fire and Police Chief in the affected community(ies) must be notified prior to remedial actions, unless prior notification is impracticable.

All permit applications must contain a copy of the local notice and an affidavit of publication of the legal notice and/or MEPA notice.

Legal notices are published in the local newspapers of the community(ies) affected or potentially affected by the disposal site; legal notice forms and MEPA notice forms are available from DEP Regional Service Centers.

(1) Opportunities are also available to comment on agency actions concerning Special Project Designations (310 CMR 40.0600) and DEP decisions to characterize groundwater in a potential productive aquifer as a non-potential drinking water source area (310 CRM 40.0932(5)(c)).